

**REMARKS**

Claims 1-12 are pending in the instant application. The Examiner rejects claims 13-48 under 35 U.S.C. 103, and claims 1-12 are withdrawn from consideration. Upon entry of the present Amendment after Final Rejection, claims 13-20, 22-38 and 40-48 will be pending.

**Examiner Interview**

Applicants and their representative Mr. Pittman spoke telephonically with the Examiner on April 30, 2004. The Examiner indicated that a claim reciting the elements of claim 13 in combination with a "compatibilizing block copolymer" as recited in claim 21 would be allowable. Likewise, the Examiner indicated that a claim reciting the elements of claim 31 in combination with a "compatibilizing block copolymer" as recited in claim 39 would be allowable. Applicants herein make the suggested amendments to the two aforementioned claims and change the claim dependency of other claims so that those previously depending from claim 21 now depend from claim 13 and those previously depending from claim 39 now depend from claim 31. No issue of new matter can arise by way of this amendment since Applicants are merely combining claim language of claims originally filed.

Applicants further change the language of claim 1 to expressly recite that the "three dimensional network of uniformly distributed microcracks" is reticulated or interconnected. No new matter arises by way of this claim amendment since express support for the recitation may be found in the specification at page 5, lines 4-11 among other places.

Rejection of Claims 13 and 16 under 35 USC §103(a) over Srinivas in combination with various secondary references.

The Examiner previously maintained that claims 13 and 16 were unpatentable under 35 USC 103 over Srinivas and Biernebaum. Applicants reiterate the explanations previously set forth explaining that this rejection is not proper. Nonetheless, in the interest of advancing prosecution, Applicants have made the suggested changes to the claims to further distinguish the subject matter of the invention from the cited references.

The instant invention is fundamentally different from Srinivas. The instant invention provides a breathable film whose structure is in the form of a three dimensional reticulated or interconnected network of uniformly distributed microcracks created in a two step stretching process. The invention features compatibilization and porosity in the matrix. All of the embodiments currently claimed use compatibilizers. As a result of this feature, higher bond strength exists between the two phases of the blend. By contrast, Srinivas does not provide a breathable film with a three dimensional reticulated network. Applicants have herein introduced “reticulated” as an express recitation of the claim language in accordance with the specification to further distinguish the instant invention as claimed from the prior art. Srinivas provides a cold drawn film comprising two components in which the cracks are created without delay. Moreover, Srinivas does not teach or suggest providing compatibilizing copolymers. Instead, Srinivas relies on a weak interface between the polymer components (col. 10, lines 1-10). Upon commencement of the stretching step (identification of the minimum draw), cracks form right away (col. 11, lines 20 et seq.).

Srinivas does not teach or suggest a breathable membrane having a three dimensional structure with compatibilization produced in two stretching steps (hot and cold). Insofar as all of the other rejections rely essentially on Srinivas with other references cited for further limitations, it is clear that none of the secondary references cure the deficiencies of Srinivas.

Applicants do, however, reiterate further distinctions regarding Bierenbaum (US Pat. No. 3,426,754). Bierenbaum teaches a breathable film produced by a cold stretch that is composed of a single polymer. There is no polymer blend and hence no interface that can produce a reticulated structure according to the instant invention.

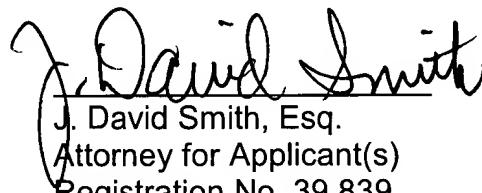
**Fees**

No further fees are believed to be due in connection with this Response and Amendment. However, should any further fees be necessitated, authorization is hereby given to charge Deposit Account no. 11-1153 for any underpayment.

**CONCLUSION**

Entry of the foregoing remarks into the record of the above identified application is respectfully requested. Withdrawal of all rejections and reconsideration of the amended claims is requested. An early allowance is earnestly sought.

Respectfully submitted,



J. David Smith  
J. David Smith, Esq.  
Attorney for Applicant(s)  
Registration No. 39,839

KLAUBER & JACKSON  
411 Hackensack Avenue  
Hackensack NJ 07601  
Tel: (201) 487-5800